THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

W.P.No. 31362 OF 2015

JUDGMENT: (*per Hon'ble Sri Justice Ramesh Ranganathan*)

The proceedings under challenge in this Writ Petition is the assessment order passed by the 1st respondent dated 30-03-2014. The ground, on which the said order is subjected to challenge, is that the 1st respondent lacked jurisdiction to assess the petitioner to tax; and the assessment order is barred by limitation for the tax period April, 2007, to February, 2010.

The facts, to the limited extent necessary, are that, pursuant to a show-cause notice issued on 16-12-2013 by the 1st respondent, an assessment order was passed on 30-03-2014. While the 1st respondent was authorized, by the Deputy Commissioner, Commercial Taxes, to conduct an audit of the petitioner's books, he was not authorized to assess the petitioner to tax. While the 1st respondent claims to have been so authorized by the Deputy Commissioner on 23-12-2013, the fact remains that, even if it were to be so, the 1st respondent lacked jurisdiction to issue the show-cause notice on 16-12-2013 as he was not authorized by the Deputy Commissioner as on that date. The show-cause notice issued on 16-12-2013 was without jurisdiction as the 1st respondent was not even authorized to issue the show-cause notice. Consequently, the assessment order passed, pursuant thereto, is liable to be and is, accordingly, set aside.

The Andhra Pradesh Value Added Tax Rules, 2005, was amended with effect from 23-01-2013, and the territorial assessing authority (the 2nd respondent) has been conferred jurisdiction to assess dealers, within his territorial limits, to tax without authorization from the Deputy Commissioner. This order shall not preclude either the territorial assessing authority, or any other officer authorized by the Deputy Commissioner, Commercial Taxes, to assess the petitioner to tax, and pass an assessment order afresh and in accordance with law.

As the impugned order is set aside on the short ground of lack of jurisdiction of the 1st respondent to assess the petitioner to tax, it is wholly unnecessary for us to examine whether the assessment order, for the tax period April, 2007, to February, 2010, is barred by limitation more so, as Sri S.Suri Babu, learned special standing counsel for Commercial Taxes, would contend that the extended period of limitation, under Section 21 (5) of the Andhra Pradesh Value Added Tax Act, 2005, was invoked. Suffice it to make it clear that all contentions urged before us, including that of limitation, are left open to be urged before the assessing authority who shall consider the same before passing an assessment order afresh in accordance with law.

The Writ Petition is, accordingly, disposed of. Pending miscellaneous petitions, if any, in this Writ Petition shall stand closed in consequence. No order as to costs.

RAMESH RANGANATHAN, J.

M.SATYANARAYANA MURTHY, J.

Date: 03rd December, 2015.

JSK